



Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: July 3, 2002

COUNCIL DISTRICT: 6

SUBJECT: PDCSH01-03-038. Final Environmental Impact Report for Cinnabar Commons, a Planned Development Rezoning to construct up to 260 affordable multi-family dwelling units and a 20,000 square foot park on an approximately 4.315 acre site located at the west side of Stockton Avenue, between Cinnabar Street and Lenzen Avenue

BACKGROUND

This memo provides the Planning Commission with relevant information about the California Environmental Quality Act (CEQA) and City of San Jose requirements for Environmental Impact Reports (EIRs). This information is intended as background to facilitate the Planning Commission deliberations on the completeness of the document. This procedural information is not intended to displace any of the technical information included in the Environmental Impact Report.

Role of the Planning Commission

The City of San Jose is the lead agency for the Cinnabar Commons EIR as defined by CEQA. The Planning Commission is designated by the City's Municipal Code as the decision-making body for certification of Environmental Impact Reports and is required to hold a public hearing to certify the Final EIR. Upon conclusion of its certification hearing, the Planning Commission may find that the Final EIR is completed in compliance with CEQA. The Planning Commission's certification of an EIR may be appealed to the City Council by any person filing a written appeal with the Director of Planning, no later than 5:00 p.m. on the third business day following certification of the Final EIR. If the Planning Commission does not certify the EIR, it shall take no action, nor make any recommendation, with regard to the project.

The Final EIR consists of the Draft EIR, and the First and Third Amendments (Responses to Comments and amendments to the Draft EIR text). The First Amendment to the Draft EIR provides the City's response to comments received on the Draft EIR during the 30-day public review period (April 5, 2002 through May 6, 2002), and includes text revisions to the Draft EIR. It was determined that there were some omissions from the Second Amendment, so it is being replaced by the Third Amendment to the Draft EIR. The Third Amendment provides the City's response to comments received after the close of the public review period.

Proposed Project

The proposed project is a Planned Development Rezoning to construct four (4) buildings containing 245 affordable multi-family dwelling units as Phase I of a 260 unit development and a 20,000 square foot public park at the westerly side of Stockton Avenue, on approximately 4.09 acres between Cinnabar Street and Lenzen Avenue (File No. PDCSH01-03-038). The project proposes conversion of this industrial site for the proposed residential uses, with removal of an existing underground gasoline tank , sump pump, and contaminated soils, located beneath the existing industrial buildings. The report also analyzes a Phase II of the project consisting of 15 multi-family dwelling units on a 0.225-acre parcel fronting on Stockton Avenue surrounded on three sides by the proposed project. Development of this parcel is not part of the currently proposed rezoning. The total site area for Phases I and II comprises 4.315 acres.

ANALYSIS

The analysis consists of CEQA EIR requirements, and a brief summary of the significant unavoidable impacts, mitigation measures included in the project, and alternatives.

CEQA EIR Requirements

An EIR is an informational document to inform public agency decision-makers and the public of the significant (physical) environmental effects of a project, identify possible ways to mitigate the significant effects on the environment, and describe reasonable alternatives to the project. An EIR is an informational document, not an action document. The lead agency is required to make a good faith effort at a reasonable and full disclosure. Approval of a project with significant unavoidable impacts would require the adoption of appropriate findings and a Statement of Overriding Considerations that state why a project's benefits outweigh its environmental costs.

CEQA focuses very much on a specific project and its direct effects that are attributable to the project being proposed and studied. CEQA requires a lead agency to study the effects of the project being proposed by the applicant. The primary concern of an EIR is with the physical changes to the environment as a direct result of the proposed project.

Recirculation Thresholds

As a general rule, EIRs are circulated for one round of public review and comment. CEQA anticipates that, in response to comments on the Draft EIR, a Final EIR will provide additional information that amplifies or augments the discussion and analyses in the Draft EIR. The addition of new information to an EIR after it has been circulated for comment will only trigger recirculation in very limited circumstances in which the new information shows that:

- (1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduces the impact to a level of insignificance;
- (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it; or

- (4) the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Review of Response to Comments

The City of San Jose, the lead agency, is required to provide a written response to a public agency on comments made by that agency within the public review period, and to provide the response to timely comments at least 10 days prior to certifying an EIR. The 10 days is intended to allow a public agency sufficient time to review the responses to the comments submitted by that individual public agency. The City of San Jose has also provided responses to comments received after close of the public review period. The First and Third Amendments provide the City's response to comments, which together with the Draft EIR constitutes the Final EIR.

None of the recirculation thresholds is met in this case. Any new information that has been added to the Final EIR clarifies and amplifies or makes minor modifications to discussion and analysis in the Draft EIR. The fact that comments requested that additional information be provided on various topics, and that the Final EIR responds by providing additional information, does not trigger recirculation. The City has endeavored to evaluate and respond to comments by providing a reasoned analysis, which adequately addresses the environmental concerns raised in the comments received.

Significant Unavoidable Impacts

The proposed project would result in several significant unavoidable impacts. Prior to approval of the proposed project, the City Council would be required to adopt appropriate findings and a Statement of Overriding Considerations that explain why the project's benefits outweigh its environmental costs. The specific impacts that have been identified as significant unavoidable include the following.

Land Use Compatibility

The project would locate four-story buildings adjacent existing single-family homes on North Morrison Avenue and Cinnabar Street, and the proposed park on Stockton Avenue which could result in land use compatibility impacts from shade and shadow impacts and visual intrusion. There is no mitigation available to avoid the significant shade and shadow impacts. Inclusion of design measures could avoid potentially significant land use impacts from visual intrusion. However, as there are presently no restrictions that would limit or preclude visual intrusion impacts, the project as proposed could result in a significant unmitigated land use impact.

Noise

Existing noise levels at the project site are incompatible with the proposed residential land use. Some major sources of noise to the project site include rail operations, aircraft noise, and road traffic noise. Specifically, the proposed park and some outdoor areas will be exposed to noise levels that exceed the City's exterior noise standard of 60 DNL. The project includes measures to reduce interior noise levels in residences to achieve noise levels of 45 DNL or less to be in conformance with the City's noise guidelines. However, exterior sound levels in some private

open space and park areas would exceed the City's noise guidelines and would result in a significant unavoidable impact.

Cultural Resources

The project would demolish the Muirson Company buildings, which are eligible for City Landmark status, as well as listing on the California Register of Historic Resources and the National Register of Historic Places. The Muirson Company had played an important role in the Santa Clara Valley's agricultural history, and is associated with William Binder, a prominent local architect, and Ralph Rambo, a prominent local artist. Loss of these historic structures would constitute a significant impact, both individually and cumulatively. The applicant currently does not propose any measures that would mitigate this impact to a less than significant level.

Alternatives to the Project

All EIRs are required analyze a reasonable range of alternatives in addition to an analysis of the proposed project. The alternatives identified in the EIR should feasibly attain most of the basic objectives of the project, but avoid or substantially lessen any of the significant effects of the project. The purpose of this analysis is to ascertain whether there are alternatives of design or scope which could substantially lessen the significant impacts.

The Cinnabar Commons EIR is for a project that will implement the adopted San Jose 2020 General Plan Land Use/Transportation Diagram designation of Residential Support for the Core Area (25+ dwelling units/acre) by providing 245 to 260 affordable housing units. As such, the alternatives section of the EIR primarily focuses on site design and development intensity, in conformance with the CEQA requirement to focus on the project specific effects which are peculiar to the project or site.

The Cinnabar Commons EIR considers four (4) alternatives to the proposed project. Of these, the Reduced Scale Adaptive Reuse alternative is the environmentally superior alternative.

- ***No Project Alternative***

Under the No Project Alternative, the current industrial land uses on the site would continue on the project site and all existing buildings would remain intact.

This alternative would avoid any impacts to historic resources on the site, but it would also not achieve the project objectives of developing at least 245 affordable housing units. Existing contaminated soils on the site would also remain.

- ***Adaptive Reuse Alternative - Reduced Scale***

Under the Reduced Scale Adaptive Reuse Alternative, the existing Muirson Company buildings on the site would be converted to residential use. Modifications to the Muirson Company buildings could yield approximately 40 multi-family units. New construction for housing units at the currently proposed height would occur on the remaining southern portion at the site, and the park dedication would still occur at the southeast corner of Stockton and Lenzen Avenues.

This alternative would reduce or avoid the impacts to cultural resources, but might not completely reduce or avoid the hazardous materials impacts to future residents. Conversion of the Muirson Company buildings to residential units would yield fewer units than the currently proposed four-story building for this portion of the site. Therefore, this alternative would not meet the project objective of providing at least 245 units of affordable housing.

▪ *Adaptive Reuse Alternative - Full Scale*

Under the Full Scale Adaptive Reuse Alternative, the existing Muirson Company buildings on the site would be converted to residential use. Modifications to the Muirson Company buildings could yield approximately 40 multi-family units. New construction for housing units would occur on the remaining southern portion at the site. The new buildings will need to be taller, at a maximum of approximately eight stories, to fully accommodate the proposed 245 to 260 housing units. The park dedication will still occur at the southeast corner of Stockton and Lenzen Avenues.

This alternative would reduce or avoid the impacts to cultural resources and would meet the project objective of providing at least 245 affordable housing units, but might not completely reduce or avoid the hazardous materials impacts to future residents. The added height on the new buildings may result in additional visual intrusion, and shade and shadow impacts to nearby single-family homes.

▪ *Location Alternative*

The project would move to a 1.25-acre site at the northwest corner of Stockton Avenue and The Alameda under the Location Alternative. Developing four-story buildings on the alternative site would yield approximately 100 attached residential units.

This alternative would completely avoid the cultural resources impacts, but would not meet the project objectives of providing at least 245 affordable housing units. There is insufficient land at this location to accommodate a park.

RECOMMENDATION

The Director of Planning, Building and Code Enforcement recommends the Planning Commission adopt a resolution to certify that:

1. The final EIR has been completed in compliance with CEQA;
2. The final EIR reflects the independent judgement and analysis of the City of San Jose; and
3. The Director of Planning, Building and Code Enforcement shall transmit copies of the Final EIR to the Applicant and to the decision-making body of the City of San Jose for the project.

Stephen Haase, AICP, Director
Planning, Building and Code Enforcement